

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Thomas Juliano	Team: Squad #13	CCRB Case #: 201903523	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/24/2019 11:30 AM	Location of Incident: In front of § 87(2)(b)	Precinct: 47	18 Mo. SOL 10/24/2020	EO SOL 6/10/2021	
Date/Time CV Reported Wed, 04/24/2019 1:54 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 04/24/2019 1:54 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Janet Rivera	03541	961171	047 PCT
2. An officer			047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Tyler Reyes	20619	959129	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Janet Rivera	Abuse: Police Officer Janet Rivera threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)
B.POF Janet Rivera	Force: Police Officer Janet Rivera used a Taser against § 87(2)(b)	§ 87(2)(b)
C. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	§ 87(2)(b)

Case Summary

On April 24, 2019, § 87(2)(b) filed this complaint with the CCRB via the online website on behalf of herself and her son, § 87(2)(b).

On April 24, 2019, at approximately 11:30 a.m., § 87(2)(b) was driving her vehicle with § 87(2)(b) in the front passenger seat when they were pulled over in front of their home, located at § 87(2)(b) in the Bronx, by PO Janet Rivera and PO Tyler Reyes of the 47th Precinct for failing to stop at a stop sign. PO Rivera threatened to forcibly remove § 87(2)(b) to the hospital (**Allegation A: Abuse of Authority** – § 87(2)(g)). PO Rivera tased § 87(2)(b) (**Allegation B: Force** – § 87(2)(g)). An officer damaged § 87(2)(b)'s windshield (**Allegation C: Abuse of Authority** – § 87(2)(g)). After § 87(2)(b) was placed under arrest, seven additional officers from the 47th Precinct responded to the location. § 87(2)(b) was issued a summons for failing to stop at a stop sign. The disposition of the summons is still pending (**Board Review 16**). § 87(2)(b) was arrested for § 87(2)(b), § 87(2)(a) 160.50. His arrest has since been sealed. OCA lists no results regarding the arrest (**Board Review 17**).

BWC footage from nine officers, including PO Rivera and PO Reyes, captured this incident. The footage can be found in IAs #29-41, and summaries of the footage can be found in IA #47 (**Board Review 01**).

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Janet Rivera threatened to remove § 87(2)(b) to the hospital.

It is undisputed that PO Rivera and PO Reyes stopped § 87(2)(b)'s vehicle in front of § 87(2)(b)'s home for failing to stop at a stop sign and that § 87(2)(b) attempted to exit the vehicle to use the restroom (**Board Review 02, 03, 04**).

PO Rivera's BWC footage, at the 00:52 timestamp on the video player, visible at the bottom of the screen, shows PO Rivera and PO Reyes approaching § 87(2)(b)'s vehicle as § 87(2)(b) attempts to get out of the vehicle. PO Rivera orders § 87(2)(b) to remain in the vehicle four times. Each time, § 87(2)(b) asks why he needs to remain in the vehicle. PO Rivera tells § 87(2)(b) why she was stopped, and § 87(2)(b) becomes upset and states that § 87(2)(b) stopped at the stop sign (**Board Review 05**).

PO Reyes' BWC footage from the same moment, starting at the 01:18 timestamp on the video player, visible at the bottom of the screen, shows that § 87(2)(b) attempts to open the front passenger door and tells PO Reyes, "Excuse me." PO Rivera walks to the passenger side of the car and asks § 87(2)(b) "What's going on? You good, bro? You want to go to the hospital? Because you're not understanding. I'm telling you to sit tight in the car." § 87(2)(b) replies that he has to go "piss." At 02:08, § 87(2)(b) asks PO Reyes if he can go "pee," and opens the car door. PO Reyes responds, "sit right here," and pushes the car door closed. § 87(2)(b) again opens the car door but does not exit. At 02:20, while § 87(2)(b) is arguing the validity of the stop with PO Reyes, § 87(2)(b) places her hand on § 87(2)(b) and § 87(2)(b) yells at § 87(2)(b) to stop touching him. § 87(2)(b) exits the car, attempts to walk past the officers, and tells them that he has to go "pee." At 02:55, PO Rivera tells § 87(2)(b) "You're about to go to the hospital." At 04:00, as § 87(2)(b) argues with the officers, § 87(2)(b) grabs § 87(2)(b)'s arm and tells him to stop. § 87(2)(b) pushes § 87(2)(b)'s arm away and yells at § 87(2)(b) to go back in the car. PO Rivera asks § 87(2)(b) "Does he take psychiatric medication?" § 87(2)(b) replies "no." PO Rivera tells § 87(2)(b) "If you don't stop, you're going to the hospital" (**Board Review 06**).

§ 87(2)(b) was uncooperative with the investigation (see IAs for contact attempts).

PO Rivera testified that she did not recall if she threatened to take § 87(2)(b) to the hospital, but upon being presented with her body-worn camera footage, she acknowledged threatening to remove § 87(2)(b) to the hospital. PO Rivera said this because § 87(2)(b) was angry, upset, and not following commands to remain in the vehicle. PO Rivera had a general concern that he might hit § 87(2)(b) based on the way he was screaming at her, though he did not do so. PO Rivera asked § 87(2)(b) if § 87(2)(b) took psychiatric medication because she thought being off his medication might have explained his disproportionate anger at the situation. § 87(2)(b) was not doing anything physically that might have caused harm to himself. When asked during her CCRB interview if § 87(2)(b) was doing anything that may have potentially harmed others, PO Rivera stated, "He was trying to leave the vehicle. I didn't know what he had in the vehicle or on his person or what he was trying to do. That was a threat to me and my partner."

PO Reyes' statement was generally consistent with PO Rivera's.

NYPD Patrol Guide, Procedure 221-13 allows officers to remove emotionally disturbed persons (EDPs) to the hospital and defines an "EDP" as a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious physical injury or death to himself or others (**Board Review 07**)

§ 87(2)(g)

Allegation B – Force: Police Officer Janet Rivera used a Taser against § 87(2)(b)

It is undisputed that PO Rivera used a Taser against § 87(2)(b)

§ 87(2)(b) was uncooperative with the investigation (see IAs for contact attempts).

PO Rivera's BWC footage, beginning at the 00:52, shows her ordering § 87(2)(b) to remain in the vehicle five times before he ultimately exits the vehicle (**Board Review 05**). PO Reyes's BWC footage, beginning at 01:19, captures him ordering § 87(2)(b) to remain in the vehicle twice. At 02:09, § 87(2)(b) attempts to open the car door, PO Reyes closes the car door, and § 87(2)(b) reopens the door and exits (**Board Review 06**).

At 04:28 of PO Rivera's BWC footage, § 87(2)(b) is standing outside of the vehicle telling PO Reyes, "I'm about to piss." § 87(2)(b) attempts to walk away from the officers and PO Reyes grabs § 87(2)(b)'s arms and places him against the rear passenger door of § 87(2)(b)'s vehicle. § 87(2)(b) pushes PO Reyes with both hands. PO Rivera's body worn camera falls to the ground and points away from the incident. PO Rivera repeatedly tells § 87(2)(b) to calm down. § 87(2)(b) says, "I'm smarter than y'all." At 5:03, the camera is kicked and points up toward the sky, restoring some visibility of the incident. PO Reyes is seen behind § 87(2)(b) with his arms wrapped around § 87(2)(b)'s chest. § 87(2)(b) raises his leg behind PO Reyes, though it is unclear if he wraps his leg around PO Reyes. § 87(2)(b) attempts to push past the officers and walks toward the house. PO

Rivera and PO Reyes hold § 87(2)(b)'s arms but are unsuccessful in holding him back. At 05:30, PO Rivera removes her Taser. § 87(2)(b) Rivera says, "Alright, I'ma stop." PO Rivera's Taser is heard being deployed less than one second after § 87(2)(b)'s statement. PO Rivera and § 87(2)(b) are out of camera view when PO Rivera deploys her Taser (**Board Review 05**).

PO Reyes' BWC footage is contained within two videos. His footage of the same moment, visible within the second video at the 00:24, shows PO Rivera's Taser pointed at § 87(2)(b) states, "Alright, I'ma stop." At 00:25, less than a second after § 87(2)(b)'s statement, the sound of the Taser being deployed is heard. § 87(2)(b) falls to the ground and the officers handcuff him (**Board Review 08**).

PO Rivera and PO Reyes both said that since § 87(2)(b) exited the car after being ordered multiple times not to, and since he attempted to push past the officers, they planned to arrest him for obstruction of governmental administration. PO Reyes turned § 87(2)(b) toward the car and attempted to pull § 87(2)(b)'s arms behind his back. However, § 87(2)(b) resisted by stiffening his arms and wrapped his legs around PO Reyes' legs. PO Reyes testified that he was unable to move, and that § 87(2)(b) was attempting to trip him. PO Rivera pointed her taser inches away from § 87(2)(b)'s abdomen and tased § 87(2)(b) to gain compliance. She cycled her Taser once before § 87(2)(b) immediately fell to the ground and PO Rivera and PO Reyes placed § 87(2)(b) in handcuffs. PO Reyes denied hearing § 87(2)(b) state that he would stop prior to being tased and testified that § 87(2)(b) did not stop resisting prior to being tased. PO Rivera testified to warning § 87(2)(b) that she was going to tase him. However, the warning is not heard in the BWC footage.

The Taser data sheet shows that PO Rivera's Taser was cycled once during the incident (**Board Review 09**).

NYPD Patrol Guide, Procedure 221-08 states that a Conducted Electrical Weapon (CEW) should only be used against persons who are actively resisting or exhibiting active aggression. When feasible, a verbal warning, consistent with personal safety, should be given to the intended subject (**Board Review 10**).

§ 87(2)(g)
[REDACTED]

Allegation C – Abuse of Authority: An officer damaged § 87(2)(b)'s property.

§ 87(2)(b) testified that after § 87(2)(b) was placed into an ambulance, and after PO Rivera returned her documents and issued her a summons for failing to stop at a stop sign, she sat back down in her vehicle and noticed that her front windshield had an approximate 1-inch crack on the passenger side, which was not there previously. § 87(2)(b) did not see what caused the crack, but believed it occurred during the struggle between PO Rivera, PO Reyes, and § 87(2)(b). § 87(2)(b) provided a photo of the damage which she said she took following her CCRB interview (**Board**

Review 11). § 87(2)(b) stated that the crack was longer in the photo because it had grown since the incident (**Board Review 15**).

§ 87(2)(b) was uncooperative with the investigation (see IAs for contact attempts).

PO Rivera's and PO Reyes' BWC does not show anyone make contact with the windshield, though their cameras were not facing the windshield for much of the incident (**Board Review 05, 08**).

PO Rivera testified that she, PO Reyes, and § 87(2)(b) all likely came in contact with § 87(2)(b)'s vehicle at some point during the struggle. However, both PO Rivera and PO Reyes denied damaging § 87(2)(b)'s windshield and denied noticing any damage to § 87(2)(b)'s windshield before or after the incident.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party (**Board Review 13**).
- PO Rivera has been a member-of-service for 3 years this is the first CCRB complaint to which she has been a party.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of August 2, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**Board Review 14**).
- According to the Office of Court Administration (OCA), § 87(2)(b) and § 87(2)(b) have no history of convictions in New York City (**Board Review 15**).

Squad No.: 13

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date